



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 803

Hearing Date: February 20, 2001

Committee On: Agriculture

Introducers: (Agriculture Committee, Jones, Wehrbein)

Title: Adopt the Nebraska Pork Industry Development Act

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

6	Yes	Senators Burling, Cunningham, Dierks, Schimek, Schrock, Vrtiska
0	No	
0	Present, not voting	
2	Absent	Senators Chambers, McDonald

Proponents:

Rick Leonard, Research Analyst
Paul Peters
David Merrell
Alden Zuhlke
Gale Pohlmann
Carson Rogers
Max Peterson

Representing:

Agriculture Committee
Nebraska Pork Producers
Nebraska Farm Bureau Federation
Nebraska Pork Producers
Self, Pork Producers Task Force
Self
Pork Producers Task Force

Opponents:

John DeCamp
Jon Bailey
John K. Hansen
Donna Ziems
George (Gus) Pick
Mary Jane Nielsen
Brian Brandt
Claude F. Pinkelman
Cy F. Pinkelman
Jim Knopik
Max Waldo
Merlin Fick

Representing:

Self
Center for Rural Affairs
Nebraska Farmers Union
Self
Self
Self
Self
Self
Self
National Pork Producers Council
Self

Neutral:
Terry Schrick

Representing:
Self

Summary of purpose and/or changes:

LB 803 creates a producer-funded, state pork checkoff program to fund promotion, research and educational activities to benefit the pork industry. As introduced, the bill provides for the creation of a 7 - member, Pork Industry Development Board with duties to direct the expenditure of checkoff funds collected for activities consistent with the purposes of the act. The bill is modeled after the existing Corn Development and Utilization Act. The substantive elements of the bill are as follows::

Appointment of Board -- Sections 4 through 9 pertain to the creation and appointment of members to the Pork Board which would be a state agency. The board is to consist of 7 members, 6 of whom are appointed by the governor to staggered 3-year terms. 2 members are to be appointed from each of three districts, and the seventh member selected at large by the appointed board members. The Director of Agriculture, Vice Chancellor of IANR, and President of Pork Producers Council are ex officio members of the board. The bill establishes minimum qualification for serving on the board: 1) age of 21, 2) have been engaged in pork production for 5 years, and 3) derive a substantial portion of income from pork production. Board candidates are nominated by submitting to the Governor a petition signed by 25 pork producers within their district. Sections 10 through 13 address various incidental matters including compensation and expense reimbursement (\$25 / day and actual and necessary expenses), the selection of officers, procedures for removal of members for cause and procedures for filling vacancies.

Board Duties -- Duties of the Board are set out in Section 14. The board has the authority to enter contracts, adopt rules and regulations, prepare data and studies of the pork industry, employ personnel and contract for services to carry out the purposes of the Act. The directs that the board shall prohibit checkoff funds from being used to support or oppose candidates for political office or to influence state legislation. The board may utilize up to 25% of checkoff funds to influence federal legislation. Section 17 directs the board to publish an annual report of its activities and expenditures. Section 19 directs that any research activities be conducted through and with the University of Nebraska.

Checkoff Assessment -- Sections 15 and 16 provide for a mandatory assessment of \$.25 / \$100 of the gross sales price on swine transactions. The first purchaser (defined term) is obligated to collect and remit the checkoff during the month they are collected. The assessment is to begin on the effective date of the act. After January 1, 2004, the assessment rate may be set by the Board not to exceed \$.45 / \$100. All funds are remitted to and expended from the Pork Development, Utilization and Marketing Cash Fund created in Section 18.

Explanation of amendments, if any:

The committee amendments strike the original provisions and become the bill. As introduced, LB 803 assumed the termination of the federal pork checkoff program pursuant to the Pork Promotion, Research and Consumer Education Act (7 U.S.C. 4801 et seq.). The committee amendments rewrite the bill to provide for a state checkoff program beginning within certain timeframes only upon the termination of the federal program and approval through a referendum of producers. The amendments further provide for the assumption of the duties of a "state association" as this term is defined under the federal act, by a non-profit corporation meeting certain criteria set out in the Act and designated by the Governor as the state association. Such corporation would assume the administration of federal checkoff dollars remitted to the state or assessments collected at the state level if initiated upon any future termination of the federal program.

The amendment carries over definitions contained in the original bill, but adds a definition of “federal act” used throughout the amendment to mean the Pork Promotion, Research and Consumer Education Act of 1985 or substantially similar successor federal legislation. The definition avoids the necessity of writing out the entire citation at each use. The definition of producer is modified to qualify a producer as one who shares the risks of swine production. A definition referring the to Director of Agriculture is added due to duties assigned to the Director with the amendment.

The amendments insert a new findings section (amendment Sec. 3), recognizing the existence of the federal checkoff program and acknowledging the ability under the federal act, as well as the desirability, to designate a non-profit corporation distinct from advocacy associations of pork producers, to assume administration of checkoff funds.

Sections 5 through 7 establish a procedure for designating such corporation, to be known as the Nebraska Pork Industry Development Board. The amendments provide that at anytime after 1 year after the effective date of the act, the Governor, upon the recommendation of the Director of Agriculture, may designate a single organization of producers as the recognized state association for purposes of the federal act. An organization is recommended to the governor upon review of the organization’s credentials by the Director of Agriculture, pursuant to section 7, for consistency with the act and documented assurance that the organization is capable of assuming the duties of a state association under the federal act. To qualify as the designated state association, such prospective organization is to meet criteria listed in section 6, including:

1. that the corporation’s bylaws provide for the nomination and election of its board of directors by district, and that election of board members is open to all producers,
2. that board members are to serve no more than two consecutive terms of three years,
3. that revision of district boundaries occur periodically, to achieve nearly equal hog sales based upon the most recent Census of Agriculture data, in compliance with prescribed standards for boundary revisions,
4. that the financial records are audited annually according to requirements of the federal act
5. that the corporation assumes all existing and future liabilities of the existing state association, and
6. that its duties and purpose are those prescribed under the state or federal acts.

Section 8 contains transitional provisions, requiring that the recognized state association contract with the existing state association for the transfer of property and records procured with, and kept for the purposes of administration of, federal checkoff funds. The duties of the board remain identical to those delineated in LB 803 as introduced, except that the committee amendments prohibit use of checkoff funds for all lobbying activities, including at the federal level. The committee amendments also carry over the duty from the original bill for the Board to publish an annual report of activities and expenditures and the requirement that any research funded from checkoff assessments be conducted through the University of Nebraska.

Sections 10 and 11 provide for a referendum of pork producers upon the termination of the collection of assessments under the federal act to determine if producers favor an assessment for pork promotion, research and consumer education. Section 10 directs the Director of Agriculture to conduct a referendum within 60 days of the federal register publication by USDA of a final rule announcing the termination of the federal checkoff, and prescribes procedures for conducting the referendum. The director is authorized to contract with other state, federal, or local agencies to carry out necessary referendum activities. The Department is to be reimbursed for any costs of the referendum by checkoff funds collected within 120 days of the commencement of a state checkoff.

Sections 12 – 14 pertain to the assessment, and continuation of the assessment, if initiated following the initial referendum of pork producers. The amendments impose a mandatory assessment of 15/100th percent of the gross sales price of all swine beginning 120 days after the date upon which the assessment under the federal act terminates. Remittance of assessments is made the duty of purchasers in swine transactions. The amendments provide that the Board shall conduct a referendum every third year on the question of whether the assessments shall continue. An increase in the rate of assessment may be proposed by the Board and included as a separate ballot question in the referendum. The rate of assessment may not exceed 5/10th percent.

Senator Merton L. Dierks, Chairperson